5. ENVIRONMENTAL LAWS, REGULATIONS, AND CONSULTATIONS

Chapter 5 presents the laws, environmental regulations, and consultations that apply to the proposed action and alternatives. Federal, state, and U.S. Department of Energy environmental, safety, and health laws, regulations, and directives are summarized in Section 5.1. Radioactive material packaging and transportation regulations are discussed in Section 5.2. Emergency management and response laws, regulations, and Executive Orders are discussed in Section 5.3. Consultations with Federal, state, and local agencies and Federally recognized Native American groups are discussed in Section 5.4.

5.1 ENVIRONMENTAL, SAFETY, AND HEALTH LAWS, REGULATIONS, EXECUTIVE ORDERS, AND DOE ORDERS

There are a number of Federal environmental laws dealing with environmental protection, compliance, or consultation that affect compliance at every U.S. Department of Energy (DOE) location. In addition, certain environmental requirements have been delegated to state authorities for enforcement and implementation. It is DOE policy to conduct its operations in a manner that ensures protection of public health, safety, and the environment through compliance with all applicable Federal and state laws, regulations, Orders, and other requirements. This chapter describes the environmental, safety, and health laws, regulations, and Executive and DOE Orders that are important to DOE's implementation of the proposed action. The applicability of these laws, regulations, and Orders and how they affect the proposed action are discussed in Chapters 1, 2, 3, and 4, and the appendices, where appropriate. Appendix B discusses regulations that pertain to the methodologies used in the environmental impact statement (EIS) analyses. Appendices E and F discuss applicable health and safety regulations. Appendix F discusses relevant transportation regulations.

5.1.1 Federal Laws and Regulations

National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*)—The National Environmental Policy Act (NEPA) establishes a national policy promoting awareness of the environmental consequences of human activity on the environment and consideration of environmental impacts during the planning and decision-making stages of a project. It requires Federal agencies to prepare a detailed EIS for any major Federal action that could have a significant environmental impact.

DOE has prepared this EIS in accordance with the requirements of NEPA or as implemented by Council on Environmental Quality regulations (40 CFR 1500 *et seq.*) and DOE NEPA implementing regulations (10 CFR 1021).

Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*)—The Atomic Energy Act authorizes DOE to establish standards to protect health or minimize dangers to life or property for activities under DOE's jurisdiction. Through a series of DOE Orders, an extensive system of standards and requirements has been established to ensure safe operation of facilities. DOE regulations generally are found in Title 10 of the Code of Federal Regulations (CFR).

The Nuclear Waste Policy Act of 1982 (U.S.C. 10101 through 10271)—The Nuclear Waste Policy Act established the Office of Civilian Radioactive Waste Management (42 U.S.C. 10224) and the Nuclear Waste Fund (42 U.S.C. 10222) and defined its mission to develop a Federal system for the management and geologic disposal of commercial spent nuclear fuel and other high-level radioactive wastes. As originally enacted, it

called for the Secretary of Energy to recommend candidate repository sites, but in 1987 it was amended to require DOE to proceed with characterization of the Yucca Mountain site only (42 U.S.C. 10133 and 10172). The Energy Policy Act of 1992, Section 801, directed the U.S. Environmental Protection Agency (EPA) to promulgate public health and safety standards for the protection of the public from releases from radioactive materials stored or disposed of in the proposed repository at the Yucca Mountain site.

Low-Level Radioactive Waste Policy Act of 1980, as amended (42 U.S.C. 2021 *et seq*.)—This Act amended the Atomic Energy Act to specify that the Federal Government is responsible for disposal of low-level radioactive waste generated by its activities, and the states are responsible for disposal of other low-level radioactive waste. It provides for and encourages interstate compacts to carry out the state responsibilities.

Solid Waste Disposal Act of 1965, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6901 *et seq*.)—The Solid Waste Disposal Act of 1965, as amended, governs the transportation, treatment, storage, and disposal of hazardous and nonhazardous waste. Under the Resource Conservation and Recovery Act of 1976 (RCRA), which amended the Solid Waste Disposal Act of 1965, the EPA defines and identifies hazardous waste; establishes standards for its transportation, treatment, storage, and disposal; and requires permits for persons engaged in hazardous waste activities. Section 3006 of the Act (42 U.S.C. 6926) allows states to establish and administer those permit programs with EPA approval. The EPA regulations implementing RCRA are found in 40 CFR Parts 260 through 283.

Regulations imposed on a generator or a treatment, storage, and/or disposal facility vary according to the type and quantity of material or waste generated, treated, stored, and/or disposed of. The method of treatment, storage, and/or disposal also impacts the extent and complexity of the requirements.

Federal Facilities Compliance Act of 1992 (42 U.S.C. 6961 *et seq*.)—Section 102(a)(3) of the Federal Facilities Compliance Act waives sovereign immunity for Federal facilities for fines and penalties for RCRA violations and state, interstate, and local hazardous and solid waste management requirements. This waiver was delayed for three years following enactment for violations of the land disposal restrictions storage and prohibition (RCRA section 3004(j)) involving mixed waste at DOE facilities. The Act further delays the waiver of sovereign immunity beyond the three-year period at a facility if DOE is in compliance with an approved plan for developing treatment capacity and technologies for mixed waste generated or stored at the facility, as well as with an Order requiring compliance with the plan.

DOE and the State of Idaho have an approved plan, known as the "Site Treatment Plan," and associated consent order. Some of the waste being analyzed in this EIS has been designated for treatment according to terms in the Idaho National Engineering and Environmental Laboratory (INEEL) Site Treatment Plan. If DOE makes a decision based on this EIS that differs from that agreed to with the State of Idaho in the Site Treatment Plan, that Plan would be subject to renegotiation.

Toxic Substances Control Act of 1976 (15 U.S.C. 2601 *et seq*.)—The Toxic Substances Control Act provides the EPA with the authority to require testing of chemical substances entering the environment and to regulate them as necessary. The law complements and expands existing toxic substance laws, such as Section 112 of the Clean Air Act and Section 307 of the Clean Water Act. The Toxic Substances Control Act requires compliance with inventory reporting and chemical control provisions of the Act to protect the public from the risks of exposure to chemicals. The Act also imposes strict limitations on the use and disposal of polychlorinated biphenyls, chlorofluorocarbons, asbestos, dioxins, certain metal-working fluids, and hexavalent chromium. Some disposal activities under this Act might require a permit from EPA.

Clean Air Act of 1970 (42 U.S.C. 7401 *et seq*.)—The Clean Air Act is intended to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity

of its population." Section 118 of the Clean Air Act (42 U.S.C. 7418) requires that each Federal agency with jurisdiction over any property or facility that might result in the discharge of air pollutants comply with "all Federal, state, interstate, and local requirements" with regard to the control and abatement of air pollution.

The Clean Air Act: (1) requires the EPA to establish National Ambient Air Quality Standards (NAAQS) as necessary to protect the public health, with an adequate margin of safety, from any known or anticipated adverse effects of a regulated pollutant (42 U.S.C. 7409 *et seq.*); (2) requires establishment of national standards of performance for new or modified stationary sources of atmospheric pollutants (42 U.S.C. 7411); (3) requires specific emission increases to be evaluated so as to prevent a significant deterioration in air quality (42 U.S.C. 7470 *et seq.*); and (4) requires specific standards for releases of hazardous air pollutants (including radionuclides) (42 U.S.C. 7412). These standards are implemented through state implementation plans developed by each state with EPA approval. The Clean Air Act requires sources to meet standards and obtain permits to satisfy these standards.

Hazardous air pollutants are substances that may cause health and environmental effects at low concentrations. Currently, 189 compounds have been identified as hazardous air pollutants. A major source is defined as any stationary source, or a group of stationary sources located within a contiguous area under common control, that emits or has the potential to emit at least 10 tons per year of any single hazardous air pollutant or 25 tons per year of a combination of pollutants.

The 1990 amendments to the Clean Air Act substantially revised the program to regulate potential emissions of hazardous air pollutants. The aim of the new control program is to require state-of-the-art pollution control technology on most existing and all new emission sources. These provisions regulate emissions by promulgating emissions limits reflecting use of the maximum achievable control technology. These emission limits are then incorporated into a facility's operating permit. Air emissions are regulated by the EPA under 40 CFR Parts 50 through 99.

Radionuclide emissions other than radon from DOE facilities are also covered under the National Emission Standards for Hazardous Air Pollutants program (40 CFR 61.90-97). To determine compliance with the standard, an effective dose equivalent value for the maximally exposed members of the public is calculated using EPA-approved sampling procedures, computer models, or other EPA-approved procedures. DOE is currently determining if a National Emission Standards for Hazardous Air Pollutants permit will be required for radiological emissions from any spent nuclear fuel treatment and management facilities at the Savannah River Site (SRS) (stacks, process vents, etc.).

Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*)—The Clean Water Act, which amended the Federal Water Pollution Control Act, was enacted to "restore and maintain the chemical, physical, and biological integrity of the Nation's water." The Clean Water Act prohibits the "discharge of toxic pollutants in toxic amounts" to navigable waters of the United States. Section 313 of the Clean Water Act requires all branches of the Federal Government engaged in any activity that might result in a discharge or runoff of pollutants to surface waters to comply with Federal, state, interstate, and local requirements.

The Clean Water Act provides water quality standards for the Nation's waterways, guidelines and limitations for effluent discharges from point-source discharges, and the National Pollutant Discharge Elimination System (NPDES) permit program. The NPDES program is administered by the Water Management Division of the EPA pursuant to regulations in 40 CFR Part 122 *et seq*. Sections 401 through 405 of the Water Quality Act of 1987 added Section 402(p) to the Clean Water Act to require the EPA to establish regulations for permits for stormwater discharges associated with industrial activities. Stormwater provisions of the NPDES program are set forth at 40 CFR 122.26. Permit modifications are required if the discharge effluent is altered. DOE will apply for discharge permit for spent nuclear fuel treatment and management facilities at SRS if the treatment process results in discharges to waters of South Carolina.

Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300(f) *et seq*.)—The primary objective of the Safe Drinking Water Act is to protect the quality of public drinking water supplies and sources of drinking water. The implementing regulations, administered by the EPA unless delegated to the states, establish standards applicable to public water systems. These regulations include maximum contaminant levels (including those for radioactivity) in public water systems, which are defined as water systems that have at least 15 service connections used by year-round residents or regularly serve at least 25 year-round residents. The EPA regulations implementing the Safe Drinking Water Act are found under 40 CFR Parts 100 through 149. For radioactive material, the regulations specify that the average annual concentration of manmade radionuclides in drinking water, as delivered to the user by such a system, shall not produce a dose equivalent to the total body or an internal organ greater than 4 millirem per year beta activity (40 CFR 141.16(a)). Other programs established by the Safe Drinking Water Act include the Sole Source Aquifer Program, the Wellhead Protection Program, and the Underground Injection Control Program.

The States of Idaho and South Carolina have received authorization from EPA to implement the public drinking water system program and the underground injection control program under the Safe Drinking Water Act. The Division of Environmental Quality, as a subdivision of the Idaho Department of Health and Welfare, sets forth monitoring and reporting requirements for inorganic and organic chemicals, and radiochemicals in Idaho. The South Carolina Department of Health and Environmental Control has established similar requirements for South Carolina.

The Safe Drinking Water Act also provides for designation of aquifers to be protected from degradation due to their importance as the sole source of drinking water. The Snake River Plain aquifer underlying INEEL has been designated as a sole source aquifer by EPA (40 FR 100-109, October 7, 1991) because groundwater supplies 100 percent of the drinking water consumed within the Eastern Snake River Plain and an alternative source or sources is not available.

Hazardous Material Transportation Act of 1975 (49 U.S.C. 5105 *et seq*.)—The Hazardous Material Transportation Act requires the U.S. Department of Transportation to prescribe uniform national regulations for transportation of hazardous materials (including radioactive materials). Most state and local regulations regarding such transportation that are not substantively the same as the Department of Transportation regulations are preempted (i.e., rendered void) (49 U.S.C. 5125). This, in effect, allows state and local governments only to enforce the Federal regulations, not to change or expand upon them.

This program is administered by the Research and Special Programs Administration of the Department of Transportation, which coordinates its regulations with those of the U.S. Nuclear Regulatory Commission (NRC), under the Atomic Energy Act, and with the EPA, under RCRA, when covering the same activities.

Individual states and Tribes often have their own statutes and/or regulations governing transportation of hazardous or radioactive materials. These laws might also be applicable to DOE transportation activities. An example of a local law that affects transportation of materials offsite from the INEEL is the Shoshone-Bannock Tribal Ordinance, the Nuclear Materials Transportation Act, ENVR 92-S5, which restricts transportation of radioactive materials across the Shoshone-Bannock Reservation.

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq*.)—The National Historic Preservation Act provides that sites with significant national historic value be placed on the *National Register of Historic Places*, which is maintained by the Secretary of the Interior. Section 110 of the Act requires Federal agencies to identify, evaluate, inventory, and protect National Register resources on properties under their control. No permits or certifications are required under the Act. However, if a particular Federal activity may impact a historic property resource, consultation with the Advisory Council on Historic Preservation is required under 16 U.S.C. 470(f). Such consultation usually generates a Memorandum of Agreement, including stipulations that must be followed to minimize adverse impacts.

Coordination with the state Historic Preservation Officer also is undertaken to ensure that potentially significant sites are identified properly and appropriate mitigative actions are implemented. DOE has notified respective State Historic Preservation Offices of its intent to consult on this project.

Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq*.)—The Endangered Species Act is intended to prevent the further decline of endangered and threatened species and to restore these species and habitats. Section 7 of the Act requires Federal agencies that have reason to believe a prospective action may affect an endangered or threatened species or its habitat to consult with the U.S. Department of the Interior to ensure that the action does not jeopardize the species or destroy its habitat. If, despite reasonable and prudent measures to avoid or minimize such impacts, the species or its habitat would be jeopardized by the action, a review process is specified to determine whether the action may proceed. DOE has consulted with the U.S. Fish and Wildlife Service regarding impacts on any species listed under the Endangered Species Act.

American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996)—This Act reaffirms Native American religious freedom under the First Amendment, and sets U.S. policy to protect and preserve the inherent and constitutional right of Native Americans to believe, express, and exercise their traditional religions. The Act requires that Federal actions avoid interfering with access to sacred locations and traditional resources that are integral to the practice of religions.

Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq*.)—The Occupational Safety and Health Act establishes standards for safe and healthful working conditions in places of employment throughout the United States. The Act is administered and enforced by the Occupational Safety and Health Administration (OSHA), a U.S. Department of Labor agency. Although OSHA and the EPA both have a mandate to reduce exposures to toxic substances, OSHA's jurisdiction is limited to safety and health conditions that exist in the workplace environment.

Under the Act, it is the duty of each employer to furnish employees a place of employment free of recognized hazards that are likely to cause death or serious physical harm. Employees have a duty to comply with the occupational safety and health standards and rules, regulations, and Orders issued under the Act. OSHA regulations (29 CFR) establish specific standards that tell employers what must be done to achieve a safe and healthful working environment. Government agencies, including DOE, are not technically subject to OSHA regulations, but are required under 29 U.S.C. 668 to establish their own occupational safety and health programs for their places of employment which are consistent with OSHA standards. DOE places emphasis on compliance with these regulations at its facilities and prescribes through DOE Orders the Occupational Safety and Health Act standards that contractors shall meet, as applicable to their work at government-owned, contractor-operated facilities (DOE Order 5480.1B and 54831.A). DOE keeps and makes available the various records of minor illnesses, injuries, and work-related deaths as required by OSHA regulations.

Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq*.)—The Pollution Prevention Act establishes a national policy for waste management and pollution control. Source reduction is given first preference, followed by environmentally safe recycling, with disposal or releases to the environment as a last resort. In response to the policies established by the Act, DOE committed to participation in the Superfund Amendments and Reauthorization Act, Section 313, EPA 33/50 Pollution Prevention Program. The goal for facilities involved in compliance with Section 313 was to achieve a 33 percent reduction (from a 1993 baseline) in the release of 17 priority chemicals by 1997. On August 3, 1993, President Clinton issued Executive Order 12856, which required DOE to achieve a 50 percent reduction in total releases of all toxic chemicals by December 31, 1999.

Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq*.)—Section 4 of the Noise Control Act of 1972, as amended, directs all Federal agencies to carry out "to the fullest extent within their authority"

programs within their jurisdictions in a manner that furthers a national policy of promoting an environment free from noise that jeopardizes health and welfare.

5.1.2 Executive Orders

Executive Order 11514 (Protection and Enhancement of Environmental Quality)—Executive Order 11514 requires Federal agencies to continually monitor and control their activities to protect and enhance the quality of the environment and to develop procedures to ensure the fullest practicable provision of timely public information and understanding of the Federal plans and programs with environmental impact to obtain the views of interested parties. DOE has issued regulations (10 CFR 1021) and DOE Order 5440.1E for compliance with this Executive Order.

Executive Order 11593 (National Historic Preservation, May 13, 1971)—Executive Order 11593 directs Federal agencies to locate, inventory, and nominate properties under their jurisdiction or control to the *National Register of Historic Places* if those properties qualify. This process requires DOE to provide the Advisory Council on Historic Preservation the opportunity to comment on the possible impacts of the proposed activity on any potential eligible or listed resources.

Executive Order 11988 (Floodplain Management)—Executive Order 11988 requires Federal agencies to establish procedures to ensure that the potential effects of flood hazards and floodplain management are considered for any action undertaken in a floodplain, and that floodplain impacts be avoided to the extent practicable.

Executive Order 11990 (Protection of Wetlands)—Executive Order 11990 requires government agencies to avoid any short- and long-term adverse impacts on wetlands wherever there is a practicable alternative. DOE requirements for compliance with flood plain and wetlands activity are codified in 10 CFR 1022.

Executive Order 12088 (Federal Compliance with Pollution Control Standards, October 13, 1978, as amended by Executive Order 12580, Federal Compliance with Pollution Control Standards, January 23, 1987)—Executive Order 12088 directs Federal agencies to comply with applicable administrative and procedural pollution control standards established by, but not limited to, the Clean Air Act, the Noise Control Act, the Clean Water Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and RCRA.

Executive Order 12580 (Superfund Implementation)—Executive Order 12580 delegates to the heads of executive departments and agencies the responsibility for undertaking: (1) remedial actions for releases or threatened releases that are not on the National Priority List, and (2) removal actions, other than emergencies, where the release is from any facility under the jurisdiction or control of executive departments and agencies.

Executive Order 12856 (Right-to-Know Laws and Pollution Prevention Requirements)—Executive Order 12856 requires all Federal agencies to reduce the toxic chemicals entering any waste stream. This Order also requires Federal agencies to report toxic chemicals entering waste streams; improve emergency planning, response, and accident notification; and encourage clean technologies and testing of innovative prevention technologies.

Executive Order 12898 (Environmental Justice)—Executive Order 12898 requires Federal agencies to identify and address any disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority or low-income populations.

Executive Order 13101 (Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition)—Executive Order 13101 requires Federal agencies to incorporate waste prevention and recycling

in its daily operations and work to increase and expand markets for recovered materials. This Order states that it is national policy to prefer pollution prevention, whenever feasible. Pollution that cannot be prevented should be recycled; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner. Disposal should be employed only as a last resort.

5.1.3DOE Directives

The Atomic Energy Act authorizes DOE to establish standards to protect health or minimize dangers to life or property from activities under DOE's jurisdiction. Through a series of DOE Directives, an extensive system of policies, Orders, notices, manuals, and guides has been established to ensure safe operation of facilities.

DOE regulations are generally found in Title 10 of the Code of Federal Regulations. These regulations address such areas as energy conservation, administrative requirements and procedures, nuclear safety, and classified information. For the purpose of this EIS, relevant regulations include: Procedural Rules for DOE Nuclear Activities (10 CFR 820); Nuclear Safety Management (10 CFR 830); Radiation Protection of the Public and the Environment (10 CFR 834, Draft); Occupational Radiation Protection (10 CFR 835); Compliance with the National Environmental Policy Act (10 CFR 1021); and Compliance with Floodplains/Wetlands Environmental Review Requirements (10 CFR 1022).

DOE Directives are issued in support of health, safety, and environmental programs. Many of DOE's Directives are in the process of being revised and reorganized to reduce duplication and eliminate obsolete provisions. The new DOE Directives are organized by series, with each Directive identified by a letter and three digit number, and will include all DOE policies, Orders, notices, manuals, and guides. The remaining DOE Directives are expected to be revised and converted to the new DOE numbering system over the next two years. The major DOE Directives pertaining to the proposed action and alternatives are listed in **Table 5–1**.

5.1.4State Environmental Laws, Regulations, and Agreements

Certain environmental requirements have been delegated to state authorities for implementation and enforcement. It is DOE policy to conduct its operations in an environmentally safe manner in compliance with all applicable laws, regulations, and standards, including state laws and regulations. A list of potentially applicable state laws, regulations, and agreements are provided in **Table 5–2**.

5.2 RADIOACTIVE MATERIAL PACKAGING AND TRANSPORTATION REGULATIONS

Transportation of hazardous and radioactive materials and substances are governed by the Department of Transportation and the NRC. Department of Transportation regulations, which may be found under 49 CFR Parts 171 through 178 and 49 CFR Parts 383 through 397, contain requirements for identifying a material as hazardous or radioactive. These regulations interface with NRC regulations for identifying material, but the Department of Transportation hazardous material regulations govern the hazard communication (such as marking, hazard labeling, vehicle placarding, and emergency response telephone number) and shipping requirements.

The NRC regulations applicable to radioactive materials transportation may be found under 10 CFR Part 71. These regulations include detailed packaging design requirements and package certification testing requirements. Complete documentation of design and safety analysis and results of the required testing are submitted to the NRC to certify the package for use. This certification testing involves the following components: heat, physical drop onto an unyielding surface, water submersion, puncture by dropping package onto a steel bar, and gas tightness. DOE may certify its own packages, per 49 CFR 173.7(d).

Table 5–1 Relevant DOE Directives

DOE Directive	*Subject*
Leadership/Management Planning	
O 151.1	Comprehensive Emergency Management System (09/25/95; Change 2, 08/21/96)
Information and Analysis	
O 231.1	Environment, Safety, and Health Reporting (09/30/95; Change 2, 11/07/96)
O 232.1A	Occurrence Reporting and Processing of Operations Information (07/21/97)
Work Processes	
O 414.1A	Quality Assurance (9/29/99)
O 420.1	Facility Safety (10/13/95; Change 2, 10/24/96)
O 435.1	Radioactive Waste Management (07/09/99)
O 440.1A	Worker Protection Management for DOE Federal and Contractor Employees (03/27/98)
N 441.1	Radiological Protection for DOE Activities (09/30/95, extended until 06/30/00 by N 441.4, 11/20/98)
N 441.4	Extension of DOE N 441.1, Radiological Protection for DOE Activities (11/20/98)
O 451.1A	National Environmental Policy Act Compliance Program (06/05/97)
O 460.1A	Packaging and Transportation Safety (10/02/96)
O 460.2	Departmental Materials Transportation and Packaging Management (09/27/95; Change 1, 10/26/95)
O 470.1	Safeguards and Security Program (09/28/95; Change 1, 06/21/96)
O 470.2	Safeguards and Security Independent Oversight Program (12/23/98)
O 474.1	Control and Accountability of Nuclear Materials (8/11/99)
Personnel Relations and Services	
3790.1B	Federal Employee Occupational Safety and Health Program (01/07/93)
Real Property Management	
4330.4B	Maintenance Management Program (02/10/94)
Project Management	
4700.1	Project Management System (03/06/87; Change 1, 06/02/92)
Environmental Quality and Impact	
5400.1	General Environmental Protection Program (11/09/88; Change 1, 06/29/90)
5400.5	Radiation Protection of the Public and the Environment (02/08/90; Change 2, 01/07/93)
5480.4	Environmental Protection, Safety, and Health Protection Standards (05/15/84; Change 4, 01/07/93)
5480.19	Conduct of Operations Requirements for DOE Facilities (07/09/90; Change 1, 05/18/92)
5480.20A	Personnel Selection, Qualification, and Training Requirements for DOE Nuclear Facilities (11/15/94)
5480.21	Unreviewed Safety Questions (12/24/91)
5480.22	Technical Safety Requirements (02/25/92; Change 2, 01/23/96)
5480.23	Nuclear Safety Analysis Report (04/10/92; Change 1, 03/10/94)
5480.30	Nuclear Reactor Safety Design Criteria (01/19/93)
5484.1	Environmental Protection, Safety, and Health Protection Information Reporting Requirements (02/24/81; Change 7, 10/17/90)
Emergency Preparedness	
5530.3	Radiological Assistance Program (01/14/92; Change 1, 04/10/92)
5530.5	Federal Radiological Monitoring and Assessment Center (07/10/92; Change 1 12/02/92)
Defense Programs	
5610.14	Transportation Safeguards System Program Operations (05/12/93)
5632.1C	Protection and Control of Safeguards and Security Interests (07/15/94)
5632.7A	Protective Force Program (04/13/94; Change 1, 02/13/95)
5660.1B	Management of Nuclear Materials (05/26/94)
Design	
6430.1A	General Design Criteria (04/06/89)

Table 5–2 State Environmental Laws, Regulations, and Agreements

Law/Regulation/Agreement	*Citation*	*Potential Requirements*
Idaho National Engineering Environmental Laboratory (INEEL), Idaho		
Idaho Environmental Protection and Health Act	ID Code, Title 39, Chapter 1	Provides for development of air pollution control permitting regulations.
Idaho Air Pollution Control Act	ID Code, Title 39, Chapter 29	Requires permitting of sources and control of toxic air pollutants and other pollutants.
Rules for the Control of Air Pollution in Idaho	IDAPA 16, Title 01, Chapter 01	Enforces national ambient air quality standards.
Idaho Water Pollution Control Act	ID Code, Title 39, Chapter 36	Enhances and preserves the quality and the value of water resources.
Idaho Rules for Public Drinking Water Systems	IDAPA 16, Title 01, Chapter 08	Controls and regulates the design, construction, operation, maintenance, and quality control of public drinking water.
Water Quality Standards and Wastewater Treatment Regulations	IDAPA 16, Title 01, Chapter 02	Enforces standards relating to the discharge of effluent into the water.
Transportation of Hazardous Waste	ID Code, Title 18, Chapter 39 ID Code, Title 49, Chapter 22	Regulates transportation of hazardous materials/hazardous waste on highways.
Various Acts Regarding Fish and Game	ID Code, Title 36, Chapters 9, 16 and 19	Requires consultation with responsible agency.
Endangered Species Act	ID Code, Title 67, Chapter 8	Requires consultation with Department of Fish and Game.
Classification and Protection of Wildlife	IDAPA 13, Title 01, Chapter 06	Requires consultation with Department of Fish and Game.
Idaho Historic Preservation	ID Code, Title 67, Chapters 41 and 46	Requires consultation with responsible local governing body.
Memorandum of Agreement	January 26, 1994	Requires consultation with Shoshone-Bannock Tribes.
Agreement-in-Principal (formerly Tribal Working Agreement)	August 6, 1998	Establishes understanding and commitment between the Tribes and DOE.
Federal Facility Agreement and Consent Order	December 9, 1991	Establishes a process for evaluating past potential releases to the environment at Idaho National Engineering and Environmental Laboratory (INEEL).
Spent Fuel Settlement Agreement (also known as the Batt Agreement)	October 16, 1995	Allows INEEL to receive spent nuclear fuel and mixed waste from off site and establishes schedules for the treatment of high-level radioactive waste, removal of spent nuclear fuel from the state, and treatment of mixed waste.

Law/Regulation/Agreement	*Citation*	*Potential Requirements*
Savannah River Site, South Carolina		
South Carolina Pollution Control Act	SC Code, Title 48, Chapter 1	Provides for the development of air pollution permitting regulations and air pollution control regulations
South Carolina Air Pollution Control Regulations and Standards	R.61-62	Requires permit prior to construction or modification of an air contaminant source and control of toxic air pollutants and other pollutants.
South Carolina Atomic Energy & Radiation Control Act	SC Code, Title 13, Chapter 7	Establishes standards for radioactive air emissions.
South Carolina Atomic Energy & Radiation Regulations and Standards	R.61-63 R.61-83	Establishes standards for radioactive air emissions.
South Carolina Pollution Control Act-Water	SC Code, Title 48, Chapter 1	Requires permit prior to construction or modification of a water discharge source.
South Carolina Water Pollution Control Regulations and Standards	R.61-9	Requires permit for the discharge of pollutants from any point source into waters of the state.
South Carolina Water Classification and Standards	R.61-68	Establishes official classified water uses, rules, and specific numeric water quality standards for protecting classified and existing water uses.
South Carolina Safe Drinking Water Act	SC Code, Title 44, Chapter 55	Establishes drinking water standards.
South Carolina Hazardous Waste Regulations and Standards	R.61-79 R.61-99 R.61-104	Protects human health and the environment by requiring careful management practices of hazardous waste.
South Carolina Solid Waste and Policy Management Act	SC Code, Title 44, Chapter 96	Establishes standards to treat, store, or dispose of solid waste.
South Carolina Solid Waste Regulations and Standards	R.61-107	Requires permit to store, collect, dispose, or transport solid waste.
South Carolina Nongame and Endangered Species Conservation Act	SC Code, Title 50, Chapter 15	Requires consultation with Wildlife and Marine Resources Department and minimization of impact.
South Carolina Museum Commission and Archaeology and Anthropology	Title 60, Chapter 12	Requires consultation with state Historic Preservation Office and minimization of impact.

Transportation casks, which are used to transport the radioactive material, are subject to numerous inspections and tests (10 CFR 71.87). These tests are designed to ensure that the cask components are properly assembled and meet applicable safety requirements. Tests and inspections are identified clearly in the Safety Analysis Report for Packaging and/or the Certificate of Compliance for each cask. Casks are loaded and inspected by registered users in compliance with approved quality assurance programs. Operations involving the casks are conducted in compliance with 10 CFR 71.91. Reports of defects or accidental mishandling are submitted to the NRC.

5.3 EMERGENCY MANAGEMENT AND RESPONSE LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This section discusses the laws, regulations, and Executive Orders applicable to emergency management and response for the proposed action and alternatives.

5.3.1 Federal Laws

Emergency Planning and Community Right-to-Know Act of 1986 (U.S.C. 11001 *et seq*.) (also known as "SARA Title III")—This Act requires emergency planning and notice to communities and government agencies of the presence and release of specific chemicals. The EPA implements this Act under regulations found at 40 CFR Parts 355, 370, and 372. Under Subtitle A of this Act, Federal facilities are required to provide various information (such as inventories of specific chemicals used or stored and releases that occur from these sites) to the state emergency response commission and to the local emergency planning committee to ensure that emergency plans are sufficient to respond to unplanned releases of hazardous substances. Implementation of the provisions of this Act began voluntarily in 1987, and inventory and annual emission reporting began in 1988. DOE requires compliance with Title III as a matter of DOE policy.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(I) (also know as "Superfund")—This Act provides authority for Federal and state governments to respond directly to hazardous substances incidents. The Act requires reporting of spills, including radioactive spills, to the National Response Center.

Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (42 U.S.C. 5121)—This Act, as amended, provides an orderly and continuing means of assistance by the Federal Government to state and local governments in carrying out their responsibilities to alleviate the suffering and damage resulting from disasters. The President, in response to a state governor's request, may declare an "emergency" or "major disaster" to provide Federal assistance under this Act. The President, in Executive Order 12148, delegated all functions except those in Section 301, 401, and 409 to the Director, Federal Emergency Management Agency. The Act provides for the appointment of a Federal coordinating officer who will operate in the designated area with a state coordinating officer for the purpose of coordinating state and local disaster assistance efforts with those of the Federal Government.

Justice Assistance Act of 1984 (42 U.S.C. 3701-3799)—This Act establishes Emergency Federal Law Enforcement Assistance to assist state and local governments in responding to a law enforcement emergency. The Act defines the term "law enforcement emergency" as an uncommon situation that requires law enforcement and is or threatens to become serious or of epidemic proportions, with respect to which state and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law. Emergencies that are not of an ongoing or chronic nature (e.g., the Mount Saint Helens volcanic eruption) are eligible for Federal law enforcement assistance that includes funds, equipment, training, intelligence information, and personnel.

5.3.2 Federal Regulations

Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release (10 CFR 30.72, Schedule C)—This section of the regulations provides a list that is the basis used by both the public and private sector to determine if the radiological materials they handle must have an emergency response plan for unscheduled releases, and is one of the threshold criteria documents for DOE Hazards Assessments required by DOE Order 5500.3A, *Planning and Preparedness for Operational Emergencies*. The Federal Radiological Emergency Response Plan, dated November 1995, primarily discusses offsite Federal response in support of state and local governments with jurisdiction during a peacetime radiological emergency.

Occupational Safety and Health Administration Emergency Response, Hazardous Waste Operations, and Worker Right to Know (29 CFR)—This regulation establishes the OSHA requirements for employee safety in a variety of working environments. It addresses employee emergency and fire prevention plans (Section 1910.38), hazardous waste operations and emergency response (Section 1920.120), and hazards

communication (Section 1910.1200) that enable employees to be aware of the dangers they face from hazardous materials at their workplace.

Emergency Management and Assistance (44 CFR 1.1)—This regulation contains the policies and procedures for the Federal Emergency Management Act, National Flood Insurance Program, Federal Crime Insurance Program, Fire Prevention and Control Program, Disaster Assistance Program, and Preparedness Program, including radiological planning and preparedness.

Hazardous Materials Tables and Communications, Emergency Response Information Requirements (49 CFR 172)—This regulation defines the regulatory requirements for marking, labeling, placarding, and documenting hazardous materials shipments. The regulation also specifies the requirements for providing hazardous material information and training.

5.3.3 Executive Orders

Executive Order 12148 (Federal Emergency Management, July 20, 1979)—Executive Order 12148 transfers functions and responsibilities associated with Federal emergency management to the Director of the Federal Emergency Management Agency. The Order assigns the Director the responsibility to establish Federal policies for and to coordinate all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies.

Executive Order 12656 (Assignment of Emergency Preparedness Responsibilities, November 1988)—Executive Order 12656 assigns emergency preparedness responsibilities to Federal departments and agencies.

5.4 CONSULTATIONS

Certain laws, such as the Endangered Species Act, the National Historic Preservation Act, and the American Indian Religious Freedom Act, recommended that consultation and coordination with other Federal agencies, state and local agencies, and Federally recognized Native American groups take place prior to a prospective action to ensure that the action does not jeopardize or destroy important resources. These consultations must occur on a timely basis before any proposed action can begin.

Consultations associated with the proposed action involve biotic resources, cultural resources, and Native American religious rights. Biotic resources consultations are to address the potential for the proposed action to disturb sensitive species or habitats. Cultural resources consultations are to address the potential disruption of important cultural resources and archaeological sites. Native American consultations are to address any potential disturbance of ancestral Native American sacred sites and traditional resources and practices. DOE consulted with the appropriate agencies, as discussed in Chapters 3 and 4.